

SENATE BILL NO. 113—SENATORS GOICOECHEA, TITUS, BUCK,
HANSEN, STONE; AND KRASNER (BY REQUEST)

FEBRUARY 8, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to groundwater management plans. (BDR 48-595)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to water; revising provisions relating to groundwater management plans; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the State Engineer: (1) may designate certain basins as
2 critical management areas; and (2) is required to designate a basin as a critical
3 management area upon receipt of a petition signed by a majority of the holders of
4 certificates or permits to appropriate water in the basin. (NRS 534.110) Existing
5 law further provides that in a basin that has been designated as a critical
6 management area, a petition for the approval of a groundwater management plan
7 may be submitted to the State Engineer by a majority of the holders of permits or
8 certificates to appropriate water in the basin. (NRS 534.037) **Section 1** of this bill
9 provides that such a petition must instead be signed by: (1) the holders of permits or
10 certificates to appropriate water in the basin that are on file in the Office of the
11 State Engineer who represent a majority of the total groundwater committed for use
12 in the basin; and (2) the holders of permits or certificates to appropriate water in the
13 basin that are on file in the Office of the State Engineer who represent a majority of
14 groundwater committed in the basin with dates of priority that are older than the
15 date on which appropriations for withdrawals of groundwater in the basin were
16 equal to the perennial yield of the basin. **Section 1** also provides that the holder of a
17 permit or certificate with such a date of priority who does not sign the petition may
18 not be required to comply with an approved groundwater management plan.

19 Under existing law, the State Engineer is required to restrict withdrawals of
20 groundwater to conform to priority rights under certain circumstances, including if
21 a basin has been designated as a critical management area for at least 10
22 consecutive years. (NRS 534.110) **Section 1** requires the State Engineer to review
23 an approved groundwater management plan that has been in effect for 10
24 consecutive years to determine whether there has been significant progress towards
25 stabilizing the drawdown of groundwater in the basin and, if not, with certain



26 exceptions, to restrict withdrawals of groundwater to conform to priority rights.
27 **Section 2** of this bill makes a conforming change to create an exception for the
28 restriction of withdrawals to allow a domestic well to continue to withdraw 0.5
29 acre-feet of water per year if the owner of the domestic well installs or has installed
30 a water meter to record the withdrawal.

31 **Section 3** of this bill requires that, beginning on October 1, 2033, 10 years after
32 the effective date of this bill, the State Engineer must review any groundwater
33 management plan that was approved before October 1, 2023, to determine whether
34 there has been significant progress towards stabilizing the drawdown of
35 groundwater in the basin and, if not, to restrict withdrawals in accordance with the
36 requirements of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 534.037 is hereby amended to read as follows:

2 534.037 1. In a basin that has been designated as a critical
3 management area by the State Engineer pursuant to subsection 7 of
4 NRS 534.110, a petition for the approval of a groundwater
5 management plan for the basin may be submitted to the State
6 Engineer. The petition must ~~be~~ :

7 (a) *Be* signed by ~~a majority of the~~ :

8 (1) *The* holders of permits or certificates to appropriate water
9 in the basin that are on file in the Office of the State Engineer *who*
10 *represent a majority of the total groundwater committed for use in*
11 *the basin;* and ~~must be~~

12 (2) *The holders of permits or certificates to appropriate*
13 *water in the basin that are on file in the Office of the State*
14 *Engineer who represent a majority of groundwater committed in*
15 *the basin with dates of priority that are older than the date on*
16 *which appropriations for withdrawals of groundwater in the basin*
17 *were equal to the perennial yield of the basin; and*

18 (b) *Be* accompanied by a groundwater management plan which
19 must set forth the necessary steps for removal of the basin's
20 designation as a critical management area.

21 2. In determining whether to approve a groundwater
22 management plan submitted pursuant to subsection 1, the State
23 Engineer shall consider, without limitation:

24 (a) The hydrology of the basin;

25 (b) The physical characteristics of the basin;

26 (c) The geographic spacing and location of the withdrawals of
27 groundwater in the basin;

28 (d) The quality of the water in the basin;

29 (e) The wells located in the basin, including, without limitation,
30 domestic wells;



1 (f) Whether a groundwater management plan already exists for
2 the basin; and

3 (g) Any other factor deemed relevant by the State Engineer.

4 3. Before approving or disapproving a groundwater
5 management plan submitted pursuant to subsection 1, the State
6 Engineer shall hold a public hearing to take testimony on the plan in
7 the county where the basin lies or, if the basin lies in more than one
8 county, within the county where the major portion of the basin lies.
9 The State Engineer shall cause notice of the hearing to be:

10 (a) Given once each week for 2 consecutive weeks before the
11 hearing in a newspaper of general circulation in the county or
12 counties in which the basin lies.

13 (b) Posted on the Internet website of the State Engineer for at
14 least 2 consecutive weeks immediately preceding the date of the
15 hearing.

16 4. The decision of the State Engineer on a groundwater
17 management plan may be reviewed by the district court of the
18 county pursuant to NRS 533.450.

19 5. An amendment to a groundwater management plan must be
20 proposed and approved in the same manner as an original
21 groundwater management plan is proposed and approved pursuant
22 to this section.

23 *6. The State Engineer shall not require the holder of a permit*
24 *or certificate in the basin with a date of priority that is older than*
25 *the date on which appropriations for withdrawals of groundwater*
26 *in the basin were equal to the perennial yield of the basin who*
27 *does not sign the petition submitted pursuant to subsection 1 to*
28 *comply with the provisions of a groundwater management plan*
29 *that is approved pursuant to this section, but the holder of such a*
30 *permit or certificate may notify the State Engineer in writing that*
31 *he or she intends to comply with the approved groundwater*
32 *management plan at any time after the groundwater management*
33 *plan has been approved.*

34 *7. If a groundwater management plan approved pursuant to*
35 *this section has been in effect for 10 consecutive years, the State*
36 *Engineer shall review the results of the groundwater management*
37 *plan to determine whether there has been significant progress*
38 *towards stabilizing the drawdown of groundwater in the basin, as*
39 *determined by the State Engineer. If the State Engineer*
40 *determines there has not been significant progress, the State*
41 *Engineer shall, except as otherwise provided in subsection 9 of*
42 *NRS 534.110, order:*

43 (a) *The groundwater management plan dissolved; and*



1 *(b) That withdrawals, including, without limitation,*
2 *withdrawals from domestic wells, be restricted in that basin to*
3 *conform to priority rights.*

4 **Sec. 2.** NRS 534.110 is hereby amended to read as follows:

5 534.110 1. The State Engineer shall administer this chapter
6 and shall prescribe all necessary regulations within the terms of this
7 chapter for its administration.

8 2. The State Engineer may:

9 (a) Require periodical statements of water elevations, water
10 used, and acreage on which water was used from all holders of
11 permits and claimants of vested rights.

12 (b) Upon his or her own initiation, conduct pumping tests to
13 determine if overpumping is indicated, to determine the specific
14 yield of the aquifers and to determine permeability characteristics.

15 3. The State Engineer shall determine whether there is
16 unappropriated water in the area affected and may issue permits
17 only if the determination is affirmative. The State Engineer may
18 require each applicant to whom a permit is issued for a well:

19 (a) For municipal, quasi-municipal or industrial use; and

20 (b) Whose reasonably expected rate of diversion is one-half
21 cubic foot per second or more,

22 ↪ to report periodically to the State Engineer concerning the effect
23 of that well on other previously existing wells that are located within
24 2,500 feet of the well.

25 4. It is a condition of each appropriation of groundwater
26 acquired under this chapter that the right of the appropriator relates
27 to a specific quantity of water and that the right must allow for a
28 reasonable lowering of the static water level at the appropriator's
29 point of diversion. In determining a reasonable lowering of the static
30 water level in a particular area, the State Engineer shall consider the
31 economics of pumping water for the general type of crops growing
32 and may also consider the effect of using water on the economy of
33 the area in general.

34 5. This section does not prevent the granting of permits to
35 applicants later in time on the ground that the diversions under the
36 proposed later appropriations may cause the water level to be
37 lowered at the point of diversion of a prior appropriator, so long as
38 any protectable interests in existing domestic wells as set forth in
39 NRS 533.024 and the rights of holders of existing appropriations
40 can be satisfied under such express conditions. At the time a permit
41 is granted for a well:

42 (a) For municipal, quasi-municipal or industrial use; and



1 (b) Whose reasonably expected rate of diversion is one-half
2 cubic foot per second or more,
3 ➔ the State Engineer shall include as a condition of the permit that
4 pumping water pursuant to the permit may be limited or prohibited
5 to prevent any unreasonable adverse effects on an existing domestic
6 well located within 2,500 feet of the well, unless the holder of the
7 permit and the owner of the domestic well have agreed to alternative
8 measures that mitigate those adverse effects.

9 6. Except as otherwise provided in subsection 7, the State
10 Engineer shall conduct investigations in any basin or portion thereof
11 where it appears that the average annual replenishment to the
12 groundwater supply may not be adequate for the needs of all
13 permittees and all vested-right claimants, and if the findings of the
14 State Engineer so indicate, except as otherwise provided in
15 subsection 9, the State Engineer may order that withdrawals,
16 including, without limitation, withdrawals from domestic wells, be
17 restricted to conform to priority rights.

18 7. The State Engineer:

19 (a) May designate as a critical management area any basin in
20 which withdrawals of groundwater consistently exceed the perennial
21 yield of the basin.

22 (b) Shall designate as a critical management area any basin in
23 which withdrawals of groundwater consistently exceed the perennial
24 yield of the basin upon receipt of a petition for such a designation
25 which is signed by a majority of the holders of certificates or
26 permits to appropriate water in the basin that are on file in the Office
27 of the State Engineer.

28 ➔ The designation of a basin as a critical management area pursuant
29 to this subsection may be appealed pursuant to NRS 533.450. If a
30 basin has been designated as a critical management area for at least
31 10 consecutive years, except as otherwise provided in subsection 9,
32 the State Engineer shall order that withdrawals, including, without
33 limitation, withdrawals from domestic wells, be restricted in that
34 basin to conform to priority rights, unless a groundwater
35 management plan has been approved for the basin pursuant to
36 NRS 534.037.

37 8. In any basin or portion thereof in the State designated by the
38 State Engineer, the State Engineer may restrict drilling of wells in
39 any portion thereof if the State Engineer determines that additional
40 wells would cause an undue interference with existing wells. Any
41 order or decision of the State Engineer so restricting drilling of such
42 wells may be reviewed by the district court of the county pursuant to
43 NRS 533.450.

44 9. If a court of competent jurisdiction orders the State Engineer
45 to restrict withdrawals to conform to priority rights or if pursuant to



1 subsection 6 or 7 *or subsection 7 of NRS 534.037* the State
2 Engineer orders that withdrawals be restricted to conform to priority
3 rights, the State Engineer must limit the restriction of withdrawals
4 from a domestic well to allow a domestic well to continue to
5 withdraw 0.5 acre-feet of water per year, which must be recorded by
6 a water meter.

7 **Sec. 3.** 1. Except as otherwise provided in subsection 2, the
8 amendatory provisions of section 1 of this act do not apply to a
9 groundwater management plan approved before October 1, 2023.

10 2. Beginning on October 1, 2033, the State Engineer shall
11 review any groundwater management plan approved before
12 October 1, 2023, to determine whether there has been significant
13 progress towards stabilizing the drawdown of groundwater in the
14 basin, as determined by the State Engineer. If the State Engineer
15 determines there has not been significant progress, the State
16 Engineer shall, except as otherwise provided in subsection 9 of NRS
17 534.110, as amended by section 2 of this act, order:

18 (a) The groundwater management plan dissolved; and

19 (b) That withdrawals, including, without limitation, withdrawals
20 from domestic wells, be restricted in that basin to conform to
21 priority rights.



